

Decision 04-08-026 August 19, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the County of Placer for an order authorizing the County to construct the Bickford Ranch Road and Trail, P.U.C. No. 001AI-117.50-A over Clark Tunnel (Tunnel #17) tracks owned by the Union Pacific Railroad Company, in the County of Placer, State of California.

Application 04-02-010
(Filed February 6, 2004)

O P I N I O N

Summary

This decision grants the request of the County of Placer (County) for authority to construct a grade-separated highway-rail crossing (crossing) over the existing Clark Tunnel (Tunnel #17) of the Union Pacific Railroad Company (UPRR) in Placer County. The new crossing will be known as Bickford Ranch Road, will be constructed in connection with the Bickford Ranch Project (Project), and will be identified as CPUC Crossing No. 001AI -117.50-A. The new crossing will not require any construction in the vicinity of the UPRR tracks. A map showing the general project vicinity and details of the crossing area is set forth in Appendix A.

Discussion

The proposed crossing, Bickford Ranch Road, is part of the Project that involves the construction of a mixed-use development that will include residential development ranging from medium density housing lots (5,000 – 7,400 square feet) to large rural estates (3.0 -10 acres). The developer plans to

develop the site with a maximum of 1,950 dwelling units, a golf course, and other recreational facilities. The proposed crossing will also include a public trail for pedestrians, bicycles, and equestrian use, and will connect the residential area of the Project to Sierra College Boulevard. Sierra College Boulevard is a nearby major thoroughfare that connects local traffic to Interstate 80 and State Route 193. The proposed crossing will be constructed over the existing UPRR Clark Tunnel. The new crossing will not require any construction in the vicinity of the UPRR tracks. County states in its Application, “the proposed Overhead will not alter existing clearances for the existing railroad tunnel... and the existing Railroad operation will not be impaired during construction.” Because the proposed crossing will be grade-separated, no railroad warning devices, special signs, or signals will be required.

County is the lead agency for this new crossing project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. On December 18, 2001, in compliance with CEQA, County filed a Notice of Determination (NOD) approving the Project. This NOD states that the Project will have a significant effect on the environment, and that mitigation measures were made a condition of approval. However, neither this NOD nor any other environmental documentation for the Project indicates any detrimental effect to the railroad tunnel from the construction of the proposed crossing. As indicated above, the proposed crossing is a part of the Project. A Statement of Overriding Considerations (SOC) was adopted for the Project and subsequently approved by the Board of Supervisors, Placer County. Mitigation measures were made a condition of approval.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report (EIR) or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities, which must be conducted by a responsible agency, are contained in CEQA Guideline Section 15096.

The Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) has reviewed County's environmental documentation. The environmental documentation consists of an EIR, the NOD, and the SOC. Safety, traffic (transportation), and noise are within the scope of the Commission's permitting process. The environmental documentation did not identify any significant impacts related to safety, traffic, and noise due to the construction and operation of the proposed crossing over the noted railroad tunnel.

RCES has inspected the site of the proposed crossing. After reviewing the need for, and safety of, the proposed crossing, RCES recommends that the requested authority sought by the County be granted for a period of three years.

Application 04-02-010 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3129 dated February 26, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and it is not

necessary to disturb the preliminary determinations made in Resolution ALJ 176-3129.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comments is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on February 18, 2004. No protests have been filed.
2. County requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated crossing over the existing Clark Tunnel (Tunnel #17) of the UPRR in Placer County. The new crossing will not require any construction in the vicinity of the UPRR tracks. This crossing will be identified as CPUC Crossing No. 001AI-117.50-A, Bickford Ranch Road.
3. Public convenience, safety and necessity require the construction of the proposed crossing.
4. County is the lead agency for this project under CEQA, as amended.
5. The Commission is a responsible agency for this project, and has reviewed and considered County's environmental documentation specified in this decision.
6. On December 18, 2001, County filed a NOD for the Project, which the proposed crossing is a part. In the NOD, the County determined that the Project will have a significant effect on the environment, and that mitigation measures

were a condition of approval. An SOC was adopted for the Project and subsequently approved by the Board of Supervisors, Placer County.

7. Safety, transportation, and noise are within the scope of the Commission's permitting process.

8. County's environmental documentation does not identify any significant environmental impacts from the construction or operation of the proposed crossing related to safety, transportation, or noise.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The County of Placer (County) is authorized to construct a grade-separated highway-rail crossing (crossing) over the existing Clark Tunnel (Tunnel #17) of the Union Pacific Railroad Company (UPRR) in Placer County. The new crossing will not require any construction in the vicinity of the UPRR tracks. The new crossing will be identified as CPUC Crossing No. 001AI-117.50-A, Bickford Ranch Road.

2. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between County and UPRR (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

3. Within 30 days after completion of the work under this order, UPRR shall notify the Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section in writing, by submitting a completed Standard

Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work was completed.

4. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

5. This application is granted as set forth above.

6. Application 04-02-010 is closed.

This order becomes effective 30 days from today.

Dated August 19, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

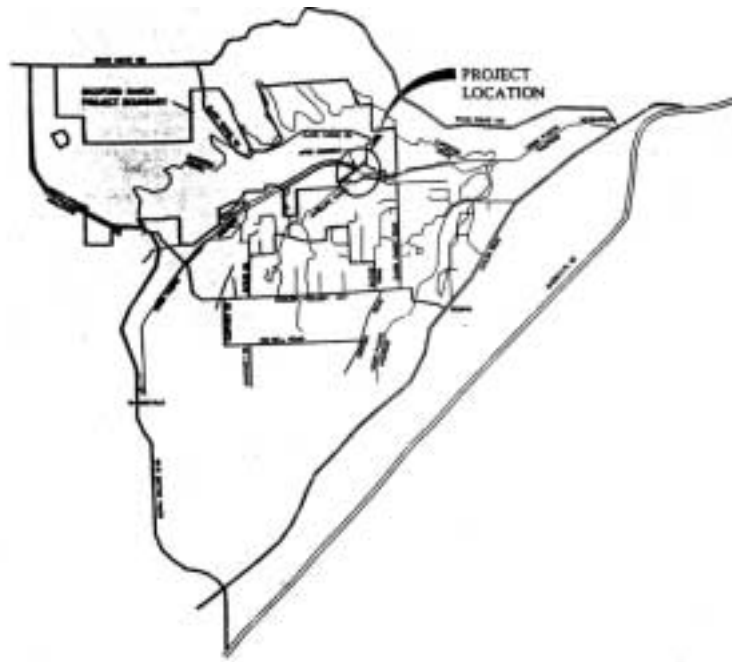
LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

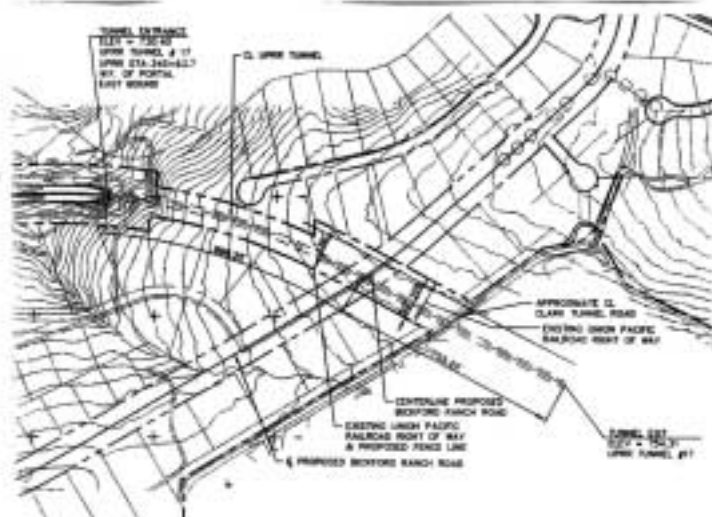
Commissioners

APPENDIX A



VICINITY MAP

SCALE: 1"=3000'



PROPOSED BICKFORD RANCH ROAD